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EVERY Decision of a Court of Justice, set aside on an Appeal, is unquestionably *illegal*, but such Decision is not therefore *notoriously* or *criminally illegal*: The Conduct of Lord Pigot may in like Manner have been *illegal*; but if his Lordship was guided by what *he thought his Duty*, his Conduct was not *criminal*; and if that Conduct was conformable to Usage or the Rules of the Company's Service, it was not *notoriously illegal*. Lord Pigot in his Letter to the Court of Directors, dated the 22d of June 1776, (Vol. I. p. 275) says,

" I will go on as I have begun, strongly recommending
" every Measure that appears to me proper, and *resolutely*
" *maintaining that nothing shall be done, which, in my Opinion,*
" *may involve your Affairs in Difficulty.*"

Thus, the Powers contended for by his Lordship in August, were not assumed to serve a present Contingence, but were such as He had testified to the Court of Directors, by the first Opportunity that offered after those Powers came into Question, and antecedent even to Col. Stuart's claim to the Command at Tanjour, which was laid before the Board the 25th. June.

The Court of Directors on receiving this Letter expressed no Disapprobation or Surprize at his Lordship's Declaration, which surely implies, that they did not then condemn the Sentiment Lord Pigot had expressed.

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Lord Pigot, in the Draft of a General Letter to the Court of Directors, laid before the Council the 19th of August, has very fully explained his Ideas of the Constitutional Authority of the President. (Vol. II. P. 67.)

The subsequent Orders of the Company are *equally* contrary to Lord Mansfield's *Explanation* of the *Constitution* as to Lord Pigot's *Idea of it*; for the Company's Orders are, that the Governor shall *not have* the *Power of dissolving* the Council by ADJOURNMENT; but they leave the Power of *Adjournment*, as well as every other Power, in the Majority, even if the Governor should leave the Council.

The following Regulations and Orders of the Company, concerning the Nature and Rules of their Government, are essentially necessary to be attended to in determining on the Conduct of Lord Pigot.

The Commission of Government appoints Lord Pigot Governor to manage the Company's Affairs, and nominates certain Persons therein named to be *His Council*, the better to *enable Him* to manage those Affairs, to *Him* and the Council *afore-named*, or the Major Part, all *present* at Madrafs being duly summoned, the Powers of Government are given: All Officers, &c. are in that Commission, as well as in their own Commissions, required to obey the Orders of the *President* and *His Council*.

The Publick Orders of the Company to the Army, require all Officers to obey the *Orders of President and Council* given
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under their Hands, or by the *Secretary* in the Name of the *President* and *Council*.

The Commission of Government declared, that Lord Pigot *could not be removed* from *his* Government but by the Court of Directors.

Every other Member of Council was, by the Company's Standing Orders, expressly liable to be *suspended* by the *President* and *Council*.

Absent Members of Council have no Vote by Proxy, so that the *President* and *Members present*, all being duly summoned, formed the Board.

In the Company's Standing Orders, every Member of Council against whom a Charge is made must withdraw.

The Place of every suspended Member is supplied by the next Company's Servant under Council *occasionally* till the Company's Pleasure is known: And this *General Rule* was, in the Instance under Lord Pigot, only *superfeded* by a *particular Order* of the Company, that no Vacancies in Council should be filled up, *even occasionally*, till the Number of Council, exclusive of the President and Military Officer, was reduced to *Ten*, including all absent Members, and by the Absence of Six, after suspending Six, the Number was still within the express Limitation: But if Lord Pigot and his Council had
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suspended *One* more, that *One* must have been immediately replaced by the *next* Company's Servant *under Council*.

Sir R. Fletcher being excluded Council by the Arrest under which he was put, Lord Pigot proposed that Col Stuart should have a Seat in Council whilst he acted as Commander in Chief; but as Questions arose concerning the Sense of the Company's Orders on that Head, so far was Lord Pigot from assuming all Powers to Himself, that it was agreed to hold no Council till the Company's Orders were carefully discussed; and this Examination was prevented by Col. Stuart presently after seizing his Governor.

The Rajah having in vain requested that Col. Stuart should not be sent to take the Command of Tanjour from Colonel Harper, Lord Pigot and those who supported him in Council thought, that as Col. Stuart was reported to have undertaken the Management of Benfield's Concerns, to whom and his Agents the Rajah attributed *all* the *Calamities* he had suffered, the King of Tanjour's Fears and Apprehensions might have driven him to Despair, and thus overturning all Confidence he had in the Company's Support, have counteracted every good Purpose of his Restoration, if Col. Stuart, who was known by the Rajah to have attached himself to Lord Pigot's Opponents, proceeded to Tanjour without Mr. Russell, whom the Rajah knew had been appointed by the President and Council to be Resident there, and whom he expected in Consequence of that Appointment: made antecedent to Col. Stuart's Appointment; and which had been talked of, before Col. Stuart's Letter claiming the Command of Tanjour, was written; Mr. Stratton
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had promised Mr. Russell his Support, and accordingly gave his Vote on 8th July, that Mr. Russell should be *resident* at *Tanjour*.

The Majority, the very Day of Mr. Dawson's Departure, by which they became a Majority, to prevent Mr. Russell's going to Tanjour, determined that he should forthwith proceed to the *Northward*, instead of proceeding to Tanjour; alledging that the Company's Orders required the Committee of Circuit to proceed immediately on that Service, the Affairs of Tanjour being *finally adjusted*, although no one Circumstance of the *Tanjour Affairs* had been *adjusted* since Mr. Russell was appointed by the *President* and *Council* to be *resident* there; Mr. Stratton then concurring in that Appointment: and although the Tanjour Affairs were so far from being *finally adjusted*, that in the very *last* Letter to the Nabob, in which the Board were *unanimous*, certain Districts belonging to Tanjour, then and still in the Nabob's Possession, were claimed for the Rajah: this Letter was delivered to the Nabob the very Day Lord Pigot was seized; His Lordship having added a Paragraph to express his good Inclination towards the Nabob.

So situated, Lord Pigot, ignorant of Law and guided by the Experience of Forty Years in the Company's Service, and by the Company's Records at Madras for a Century, in which no Instance could be produced of any Authority of Government being vested in the *Majority* of Council, *without* the *President's Concurrence*, but many Instances where that

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Concurrence had been admitted as *essential*, in *Form* and in *Substance*, did not conceive that it was *his Duty* to stop ALL the Company's Affairs, Political and Commercial, by *adjournments* to prevent *one* ruinous Measure, which he conceived himself vested with a Negative to prevent: But solicitous to avoid extremities till the Decision of the Company could be had on his contested Powers, he offered a Compromise, viz. never to exert them, except on extraordinary Occasions where the essential Interest of the Company was at Stake; if they would admit them till the Company's Pleasure was known: This was rejected by the Majority; who determined to act without him, intimating that they would issue, *by Order of COUNCIL*, Instructions to Col. Stuart, and the Orders to Col. Harper to give up the Command of Tanjour.

An Order to a Military Officer, in the *Name* of the *Council*, and not in the Name of the *President* and *Council*, was notoriously contrary to the *Constitution*, contrary to the positive Orders of the Company *then existing*, and *since* confirmed, that *all* Orders shall be issued in the Name of the *President* and *Council*, and tended to introduce Anarchy and Confusion; as no Military Officer could know who were the *Majority present* in *Council*, and therefore *Orders* in *their Name*, or *under* their Hands, were Orders to which his Commission, and the Public Regulations of the Company did not allow Obedience.

Had the Orders been issued in the Name of the *President* and *Council*, neither would Lord Pigot have *moved* the Suspension of Stratton and Brooke, nor would those Members, who concurred

ed in Opinion on that Suspension, have supported his Lordship if he had moved it, and this Lord Pigot well knew. It is true *all* the *Six* might have been Suspended instead of *Two* but neither the *Six* nor the *Two* could have been Suspended by the Governor's *sic volo*: They must have committed an *Offence* against the Company's *Orders*, before they could have been liable to a *Charge*, and *differing* in the *Construction* of *those Orders*, was neither in the Opinion of Lord Pigot or his Friends, *Ground* for a *Charge*, although it would have been absurd to have pointed out to his Lordships Opponents that they were going to do an Act, highly disapproved of, as ruinous to the Company, in the *only Manner* it could prove *ineffectual*: Lord Pigot thought his Concurrence was necessary to give Authority to any Resolution, but he was sure an *Order* issued in the Name of *the Council* without the Name of the President was *unconstitutional*, and contrary to the Companys *positive Orders*.

Stratton and Brooke were the two Members who had abandoned Lord Pigot, and formed the Majority against him in Measures they had before supported; Lord Pigot was therefore pleased that the Punishment should have fallen on them, though to the last Moment he endeavoured to persuade them to desist, but of this he had little reason to flatter himself with any expectation, as He had been assured the Majority had bound themselves by an *Oath* to support each other.

After the Suspension of Stratton and Brooke Lord Pigot would have been very soon left without any Friend in Council, but Mr. Stone for Messrs Russell, Dalrymple, and Lathom, would
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have left Madrafs, the former for Tanjour, the latter two on the Committee of Circuit.

Some Time after the Imprisonment of Lord Pigot Col. Stuart was sent to Tanjour, not to *command there*, but he was entrusted with a Political Charge, to obtain a Sum of Money from the Rajah in Behalf of the Nabob; the Sum required of the Rajah was 400,000 Pagodas, or about £160,000: The Rajah declared if it was the Company's Orders he would comply as far as he could; but that he owed the Nabob no arrears, and would give him nothing unless the Company required it of Him. Much Altercation passed on the Subject. They required this Sum to be paid as a *Deposit*, and on the 4th of April they directed Col. Stuart to seize *Grain* to that *Amount*; against this Col. Stuart remonstrated, and they desisted, but they pledged the Company's Credit to Four of their own Junior Servants for that Sum to be lent to the Nabob; so that when they got the Power into their Hands, they forgot their Declaration (Vol. I. P. 255) "that they meant not to do more than recommend to the Rajah to see that Justice be done, *leaving the Manner and Time to himself*, and had not an Idea that the Madrafs Government *ought to go further* without Orders from their Superiors."

It would have been very lucrative to the Money Brokers, to have laid the Rajah under the Necessity of borrowing such a Sum, because the more distressed he was, the more exorbitant the Rate at which the Money would be lent.

It may be useful to explain the Manner in which the Money Transactions are carried on; Bonds from the Nabob to European

ropean Individuals are given, seldom for actual Cash paid, but for *Notes*, or *Securities* given by those Individuals, who receive *Orders* from ^{him} on the different Districts, to receive the *Government Share* of the *Grain* in such Districts. The Collection is left to their Agents, and the Revenues of these Districts may be *received* without any actual *Sum* of *Money* being ever *advanced*.

No Appeal from *both Parties* was made to the Governor General and Council of Fort William in Bengal: on the contrary, when copies of *all* the Proceedings concerning Tanjour were sent down to Bengal, at the desire of the Governor General and Council of Fort William, the Majority proposed some Paragraphs to be added to the Letter accompanying those Papers which was objected to, particularly by Mr. Dalrymple, as it implied a reference of the Disputes in Council to them, who could take no Cognizance thereof; and the Paragraphs were accordingly omitted. When the Minutes of Council were copying, to be sent to Bengal by the Swallow Man of War, which sailed the Day after the Letter is dated, Lord Pigot observed that it was alledged, the omission of those Paragraphs in the Letter was made at the *Request* of the President, and in *Compliment* to him, but that it was *resolved* to enter them on the Proceedings for the *Information* of the Governor General and Council of Bengal, his Lordship thereupon struck out the Words, and wrote but the President objecting thereto, they stand only in this place. It has been pretended, the Words so stated in the Minutes of Council had been *read*, Messrs Russell, Dalrymple and Stone declare they never heard any such Minute which was notoriously contradictory

dictory to the Objection which had been made, and when the Minutes of Council were read at the next Consultation after the Swallow's Departure, none of them hinted the least Objection to the Alteration Lord Pigot had made, although they now call it falsifying the Record. If they had made an Objection when all Circumstances were recent in Memory it would have tended to their own Disgrace,

The Governor General and Council of Fort William in Bengal were themselves conscious they had no Authority except in Matters concerning Peace or War, and on Application of Stratton, &c. in a Letter of 11th November 1776, are the following Words, " we are very sorry that you should have thought it necessary to apply to us for *our Advice* upon " the Expedient of removing your late President from the " Carnatick" " We see an *evident Impropriety* in offering " *You our Opinion* in a Point on which we have *no legal* " *Authority to decide* since the *Responsibility* must *ultimately rest* " with *You*, and with *You alone*, notwithstanding *any advice* " which *we* may give".

After Lord Pigot was seized he informed the Governor General and Council of Fort William in Bengal of his Imprisonment, but He did the same to the Governor and Council of Bombay. Both Settlements wrote to Madras on the Occasion, Bengal misled by false Reports of hostile Intentions towards the Nabob, approved of the Revolution; Bombay totally condemned it; but both Settlements were equally unauthorized to decide judicially.

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In the Letter of the Court of Directors of the 11th June, 1777 ordering Stratton, &c. to England. They express the fullest Condemnation of their Conduct, and this is not a hasty Determination on the first Reports, but subsequent to the Resolution of the General Court, that Lord Pigot should be recalled. Their Words are

“ GENTLEMEN,

“ By the Receipt of your Letters, and by other Accounts
 “ received from Fort St. George, we learn with great Surprise
 “ and Concern, that Altercations and Diffensions have hap-
 “ pened in our Council of that Settlement, and have been
 “ carried to such alarming Extent, as to have issued in the Im-
 “ prisonment of the Person of Lord Pigot, our President and
 “ Governor, and the SUBVERSION OF OUR LEGAL GOVERN-
 “ MENT, which had been USURPED by You, and that when
 “ the last Advices were dispatched his Lordship remained in
 “ Confinement.

“ *As under all Circumstances we utterly disapprove these vio-*
 “ *lent Proceedings,* are anxious for the RE-ESTABLISHMENT
 “ of LEGAL GOVERNMENT, and for the Safety and Welfare
 “ of our Possessions on the Coast, we have resolved immedi-
 “ ately to restore Lord Pigot to the Office of President and
 “ Governor of Fort St. George.”

It has been alledged that Lord Pigot set Law at Defiance and, threatened to imprison the Notary who brought the Protest to Him on the 23d August. By blending Truth with Falshood, it is Truth no more. This act of the Notary did not
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even bring upon him the smallest Reprehension, he executed his duty and retired : but when in the Evening He circulated Papers, tending to incite Mutiny, to the Main Guard and other Troops in Garrison, and endeavoured to vindicate this Act as sanctified by Law ; Then Lord Pigot declared that such an Act was incompatible with the Discipline and Authority necessary in a Garrison, and that He must answer to Martial Law, if he did not give up the Authority under which he pretended to act ; the Notary then declared He was authorised by Stratton, &c. and that He would make that Declaration good when ever called upon, altho' no such Orders to Him, so given, appear on the Records of their Transactions sent to the East India Company.

Stratton, &c. in their Resolution to seize the Government, (Vol. I. p 390,) declare that they *form themselves* into a Council, *since* the Letter addressed by them in the morning have had *no effect* : this demonstrates that their *Usurpation* of the Government was before they knew of, or suspected the Arrest of Sir Robert Fletcher, or the Suspension of Floyer, &c. which was done, not in consequence of the *protest*, but in consequence of the Papers circulated by the Notary to the Troops *by their Order*, as the Notary declared, tho' they have no where recognized such Orders. When they gave the Order to seize Lord Pigot, they acted as a *self formed Council*, and not as the *Majority* of the Board, Messrs. Russell, Dalrymple, Stone, and Lathom having never been summoned to their Councils, without which *Summons* the *Majority* even with the *President* would not have been the *efficient* LEGAL GOVERNMENT.